IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3098 OF 2006

Ramdas Dhondiba Raut Applicant
versus
The State of Maharashtra Respondent

Shri M.S.Mohite for applicant.
Shri P.A.Pol, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 4th September 2006

PC :

1. The applicant applied for bail in the Trial Court after the investigations were concluded and the charge sheet was filed.

2. The grievance of the learned counsel for the applicant is that the bail application has been rejected by cryptic observations that the applicant being prima facie accused of an offence of murder and the allegation being that the murder of the deceased was caused by his wife in conspiracy with the other accused with whom she is allegedly having illicit relations, the application for bail cannot be considered.

3. I have perused the order passed at page 37. The application of the applicant who is accused no.5 in CR No.115 of 2005 registered at Vadgav Maval Police Station, Pune under sections 364, 302, 201 and 34 of IPC along with four accused.

4. The learned advocate has taken me through the post mortem report wherein it is opined that no finding can be recorded with regard to the cause of death because the body was in highly decomposed condition. He has also invited my attention to the statements of brothers and the mother of the deceased recorded on 19th May 2003 where they do not suspect any foul play. It is his grievance that neither of these materials have been referred to although produced before the Trial Court. In these circumstances, it is his grievance that relying upon the alleged statements of co-accused, the application could not have been rejected.

5. The present offence is of the year 2003. The FIR is lodged on 28th December 2005. The dead body was found on 19th May 2003. In such circumstances and when all investigations are complete, it was expected of the learned Judge to

have passed a proper reasoned order referring to the role of the present applicant. An order without discussing the aspects noted above is, therefore, clearly untenable.

6. The order is set aside to the extent that the applicant's application for bail before the Trial Court shall stand revived. In the event it is a joint application and disposed off by a common order, then irrespective of the disposal of the same, liberty is granted to the applicant to apply for bail and such application shall be considered on its own merits and in accordance with law without being influenced by any observations in the impugned order. Criminal Application disposed of.

(S.C.DHARMADHIKARI, J.)